

***United States Court of Appeals  
for the  
District of Columbia Circuit***



**TRANSCRIPT OF  
RECORD**



# TRANSCRIPT OF RECORD.

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Court of Appeals, District of Columbia

OCTOBER TERM, 1905.

No. 1542.

354

No. 2, SPECIAL CALENDAR.

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UNITED STATES, APPELLANT,

*vs.*

STEPHEN U. G. JOHNSON, ALIAS GARNET S. JOHNSON.

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APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.

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FILED APRIL 20, 1905.



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## INDEX.

	Original.	Print.
Caption.....	<i>a</i>	1
Indictment.....	1	1
Arraignment and plea. ....	8	4
Plea withdrawn, demurrer filed, demurrer overruled, and plea entered. ....	9	4
Demurrer.....	10	5
Verdict.....	11	6
Motion in arrest of judgment.....	11	6
Motion in arrest of judgment granted ; appeal.....	13	7
Time to file transcript extended.....	14	7
Clerk's certificate.....	15	8



# In the Court of Appeals of the District of Columbia.

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UNITED STATES, Appellant,  
vs.  
STEPHEN U. G. JOHNSON, alias GARNET S. JOHNSON. } No. 1542.

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*a* Supreme Court of the District of Columbia.

UNITED STATES  
vs.  
STEPHEN U. G. JOHNSON, alias GARNET S. Johnson. } No. 24278, Criminal.

UNITED STATES OF AMERICA, } ss :  
District of Columbia,

Be it remembered, that in the supreme court of the District of Columbia, at the city of Washington, in said District, at the times hereinafter mentioned, the following papers were filed and proceedings had, in the above-entitled cause, to wit:—

1 *Indictment.*

Filed in Open Court September 26, 1904. J. R. Young, Clerk.

In the Supreme Court of the District of Columbia, Holding a Criminal Term, April Term, A. D. 1904.

DISTRICT OF COLUMBIA, ss :

The grand jurors of the United States of America, in and for the District of Columbia, aforesaid, upon their oath do present:

That on the twenty-seventh day of September in the year of our Lord one thousand nine hundred and one, one Stephen U. G. Johnson, otherwise called Garnet S. Johnson, was desirous of obtaining employment as a postal letter carrier in the Washington city Post Office Department of the said United States at said District, and that the said position being in the civil service of said United States as classified under the provisions of the act of Congress entitled "An act to regulate and improve the civil service of the United States," approved January sixteenth, eighteen hundred and eighty-three, it was necessary to the obtaining of such appointment by him, the said Johnson, that he, the said Johnson, should make application for the same in writing to the United States Civil Service Commission, and that he, the said Johnson, should be examined by the said

commission touching his qualifications in the premises, and that the qualification of him, the said Johnson, for such position should be otherwise inquired into by the said commission, and that the said commission should after such examination and inquiry declare him, the said Johnson, competent for such appointment and should place the name of him, the said Johnson, in a list kept by said  
2 commission of persons declared by said commission to be eligible for appointment to such position as postal letter carrier in said Post Office Department, and from which said list only appointments to such positions of postal letter carriers could be lawfully made.

And that it was required by the rules promulgated by said commission, pursuant to law and applicable in such case, that such application of him, the said Johnson, should be made in a certain manner prescribed by the said commission and for which a blank form was furnished by the said commission to him, the said Johnson, and on which blank form certain questions touching such qualification of him, the said Johnson, were printed and which were to be answered by him, the said Johnson; and that opposite to such questions there was in each instance a space to be filled up in writing by him, the said Johnson, with the answers made by him, the said Johnson, to such questions respectively, and that it was further required by such rules that such questions and answers should be subscribed by him, the said Johnson, and that the said application as thus completed, should be sworn to by him, the said Johnson, before some officer qualified to administer an oath to him, the said Johnson, in that behalf, and that the certificate of such officer that he, the said Johnson, had subscribed and sworn to the same before him, such officer, should be attached to the said application, and that the said application as thus filled up and with such certificate attached thereto should be forwarded and presented by him, the said Johnson, to the said commission, and that such application filled in with the answers of him, the said Johnson, to such questions was executed by him, the said Johnson, in the manner  
3 prescribed by said rules, and that the material questions and answers aforesaid had reference, among other things, to whether said Johnson had ever been employed in the Government civil service of the said United States, and to whether if said Johnson had been employed in said service whether said Johnson had been discharged from said service, or had resigned from said service.

And the grand jurors aforesaid, upon their oath aforesaid, do further present:

That said Stephen U. G. Johnson, otherwise called Garnet S. Johnson, late of said District, on the thirtieth day of September in the year of our Lord one thousand nine hundred and one, and at and in the District aforesaid, well knowing said premises, and further, well knowing that he, the said Johnson, under the said name of Stephen U. G. Johnson, had been employed in said Government civil service and had been discharged from said civil service, did

then and there unlawfully and knowingly falsely make and forge the said application as aforesaid, of him, the said Johnson, and did then and there present the same at the office of said United States Civil Service Commission and to the members of said commission, the said members being then and there officers of the said United States, for the purpose of deceiving said commission as to the qualification of him, the said Johnson, for such position as postal letter carrier, and for the purpose of procuring the said commission to determine that he, the said Johnson, was competent for such position of postal letter carrier, and for the purpose of procuring the placing of the name of him, the said Johnson, in the list of  
4 said commission of persons eligible to appointment as postal letter carriers, and for the purpose of defrauding the said United States, and which said certain falsely made and forged application is of the tenor following, that is to say :

(Here follows application for examination, marked page 5.)

6 against the form of the statute in such case made and provided, and against the peace and Government of the said United States.

#### Second Count.

And the grand jurors aforesaid, upon their oath aforesaid, do further present:

That on the said thirtieth day of September in the year of our Lord one thousand nine hundred and one at and in the District aforesaid, he the said Stephen U. G. Johnson, otherwise called Garnet S. Johnson, having in his possession the said falsely made and forged application of him, the said Johnson, for the position of postal letter carrier in the said Washington city Post Office Department of the said United States in said District, did then and there unlawfully present and cause to be presented the said falsely made and forged application at the office of the said United States Civil Service Commission in said District and to the members of said commission in said District, the said members being then and there officers of the said United States, for the purpose of deceiving said commission as to the qualification of him, the said Johnson, for such position of postal letter carrier and for the purpose of procuring the said commission to determine that he, the said Johnson, was competent for such position of postal letter carrier and for the purpose of procuring the placing of the name of him, the said Johnson,

# UNITED STATES CIVIL SERVICE COMMISSION.

## APPLICATION FOR EXAMINATION.

### CLASSIFIED POST OFFICES, CUSTOMS DISTRICTS, AND INTERNAL-REVENUE DISTRICTS.

N. B.—This blank must be carefully and correctly filled, and ALL QUESTIONS must be answered. Questions 3, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 22, 23, and 25 must be answered "Yes" or "No." All answers must be in ink, the application in the handwriting of the applicant, and the vouchers and physician's statement in the handwriting of the signers thereof. There must be no discrepancy in the name of the applicant in any part of the application or in the vouchers or medical certificate. Applications or vouchers which are executed or dated more than six months before the date of filing will not be accepted.

After this blank is properly executed it should be forwarded to the Secretary of the Local Board at the post office or custom-house in which you desire appointment. If for the internal-revenue service, it should be forwarded direct to the U. S. Civil Service Commission, Washington, D. C.

Write on the blank line below the branch of the service for which and the name of the city in which you desire employment.

Post Office service, at Washington, D. C.  
(“Post Office,” “Customs,” or “Int. Rev.”) (Name of city.)

I, the undersigned, hereby apply to be examined for the position named below, intending to accept the position for which examined if eligible and if selected for appointment.

QUESTIONS.	ANSWERS.
1. What examination do you desire? State whether you desire to be examined for a position in the Post Office, Customs District, or Internal Revenue District, and name the exact position for which you wish to be examined.	Carrier, City P. O. (Position.) (Service.)
2. What is your name in full? Give your first name in full, your middle initial, or initials, if you have any, and your surname in full.	Garnet S. Johnson
3. Are you a citizen of the United States? Answer must be "Yes" or "No." If a naturalized citizen, your certificate of naturalization, or the certificate of naturalization of one of your parents (if such parent was naturalized while you were a minor) with sworn statements of two disinterested citizens as to the reputed relationship, must be forwarded with the application. The certificate will be returned to you.	Yes
4. (a) Where were you born?	In Washington, D. C.
(b) What was the month, day, and year of your birth?	June 26, 1874
(c) What was your age on your LAST birthday?	27 yrs. (Answers to (b) and (c) must be consistent.)
5. (a) Of what State or Territory are you an actual, bona fide (legal) resident?	Washington, D. C.
(b) How long have you been such resident thereof?	Since June 26, 1874 (Day, month, and year.)
(c) Of what town or city and county or parish are you such resident?	Washington, D. C.
(d) How long have you been such resident thereof?	Since June 26, 1874, 18
6. Name the kind of school in which you were educated. Viz: Common school, high school, business college, academy, college, etc. If educated in high school, academy, college, university, etc., give the name and location of the school, and state how long you attended, and whether you were graduated.	Common School
7. Are you or have you been married? Answer "Yes" or "No." If applicant is a married woman, the full name, post-office address, and legal residence of her husband are required.	No
8. Are any members of your family, or any of your relatives, in the service of the Government? Answer "Yes" or "No." If so, state who they are, in what position, in what branch of the service, and the relationship.	No
9. Have you ever been convicted of, or indicted for, any crime? Answer "Yes" or "No." If so, inclose herewith a certified copy of the court proceedings, showing the essential facts in the case.	No
10. (a) Are you addicted to the use of intoxicating liquors; tobacco, morphine, or opium?	No
(b) If so, which, and to what extent?	
(c) Have you been addicted to the use of intoxicating liquors, tobacco, morphine, or opium?	No
(d) If so, to which, and to what extent?	
11. (a) Are you physically capable of a full discharge of the duties of the position to which you are seeking appointment?	Yes
(b) Have you any defect of sight in either eye?	No
(c) Have you any defect of speech?	No
(d) Have you any defect of limb?	No
(e) Have you any defect of hearing?	No
12. What is your height, measured in your bare feet?	5 feet 7 inches.
13. What is your weight in your ordinary clothing, without overcoat or cloak?	151 pounds.

QUESTIONS.	ANSWERS.			
	Branch of service	Position.	Date.	Passed or failed.
14. Have you been examined for any branch of the classified service within twelve months next preceding the date of this application? If so, state for what branches, for what positions, the dates, and results. The different branches of the service are: Post Office, Customs, Internal Revenue, Departmental, and Government Printing.	NO			
15. (a) Have you any other application on file in any branch of the classified service? Answer "Yes" or "No." (b) If so, for what branch and for what position? (c) Is your name now on any register for appointment in any branch of the classified service? Answer "Yes" or "No." (d) If so, for what branch, in what city, and for what position?	NO			
16. Are you now in the Government civil service? Answer "Yes" or "No."	NO			
17. (a) Were you ever separated from the Government civil service? Answer "Yes" or "No." (b) If so, state when, from what position, what city, and branch of service, and whether you resigned or were discharged. Avoid any allusion to politics or to change of administration.	NO			
18. (a) Are you now in the military or naval service of the United States? Answer "Yes" or "No." (b) Were you ever honorably discharged from the military or naval service of the United States on account of disability resulting from wounds or sickness incurred in the line of duty? If so, give the name of the vessel on which, or the company and regiment in which you served, with the dates of your enlistment and discharge. (c) Give the exact name under which you enlisted and were discharged.	NO			
19. (a) What is your present place of abode? (b) What is your present occupation, business, employment, or position? (c) What was your place of abode (city or town, and State) during last year? (d) What was your occupation, business, employment, or position during that year? (e) What was your place of abode (city or town, and State) during the year preceding last year? (f) What was your occupation, business, employment, or position during that year? (g) What was your place of abode (city or town, and State) during the second year preceding last year? (h) What was your occupation, business, employment, or position during that year?	Washington, D. C. Teaching Washington, D. C. Teaching Washington, D. C. Teaching Washington, D. C. Teaching			
20. What has been your principal occupation or occupations since you left school?	Teaching School			
21. Give the names and addresses of the persons by whom you have been employed during the past three years.	1901 M. P. Scallahan-914 F St.N.W. 1900-J. S. Johnson, 1419 11thSt.N.W. 1899 J. Thos. Jackson,324 Elm St.N.W.			
22. Have you been employed in any State or municipal service? If so, when, where, and in what positions?	No			
23. (a) Were you ever discharged on account of delinquency or misconduct from any position in which you were employed? (b) If so, state when, from what position, and by whom you were discharged.	NO			
24. How long did you attend school, and at what age did you leave school?	(a) 12 yrs. (b) 22 yrs.			
25. Are each and all of the answers to the foregoing questions in your own handwriting?	Yes			

I hereby certify that the answers to the foregoing questions are true in every particular.

The signature must be affixed to the application in the presence of the officer before whom the oath is taken.

(Signature of applicant.) Garnet S. Johnson

(P. O. address.) 324 Elm St. N. W., Wash. D. C.

[The following oath must be taken before a NOTARY PUBLIC, or other officer authorized to administer oaths for general purposes, and the OFFICER'S SIGNATURE MUST BE AUTHENTICATED BY OFFICIAL SEAL. If the oath be taken before a justice of the peace or other officer who has no official seal, his official character must be certified by the clerk of court, secretary of state, or other proper officer, under official seal.]

Sworn to and subscribed before me by the above-named applicant, to me personally known, this 27th day of Sept., 1901, at Washington, county of , and State [or Territory or District] of D. C.

(Signature of officer.) Joseph R. Fague,

[OFFICIAL SEAL.]

(Notarial Seal.) (Official title.) Notary Public.

in the list of the said commission of persons eligible to appointment  
as postal letter carriers, and for the purpose of defrauding  
7 the said United States, he, the said Johnson, then and there,  
to wit, at the time and place last aforesaid, well knowing the  
said application to be false and forged; against the form of the  
statute in such case made and provided, and against the peace and  
Government of the said United States.

MORGAN H. BEACH,  
*Attorney of the United States in and for the  
District of Columbia.*

Endorsed: No. 24,278. United States vs. Stephen U. G. Johnson,  
alias Garnet S. Johnson. Violation sec. 5479, R. S. U. S. Witnesses:  
Carter B. Keene, George R. Wales, Horace P. Springer. A true bill.  
Edward H. Downs, foreman.

8

*Arraignment.* ✓

Supreme Court of the District of Columbia.

MONDAY, October 17, 1904.

The court resumes its session pursuant to adjournment, Mr. Justice  
Gould presiding.

*	*	*	*	*	*	*
UNITED STATES	}					
vs.						
STEPHEN U. G. JOHNSON, alias Garnet S. Johnson.						
						No. 24278. Indicted for Violation of Section 5479, R. S. U. S.

Come as well the attorney of the United States as the defendant  
in proper person according to his recognizance; and thereupon, the  
defendant being arraigned upon the indictment, (the reading of  
which was waived by the defendant) he pleads thereto not guilty  
and for trial puts himself upon the country and the attorney of the  
United States doth the like.

\* \* \* \* \*

WEDNESDAY, January 25, 1905.

The court resumes its session pursuant to adjournment, Mr. Justice  
Gould presiding.

*	*	*	*	*	*	*
9	UNITED STATES	}				
	vs.					
	STEPHEN U. G. JOHNSON, alias Garnet S. Johnson.					
		No. 24278. Indicted for Violation of Section 5479, R. S. U. S.				

  

UNITED STATES	}					
vs.						
STEPHEN U. G. JOHNSON, alias Garnet S. Johnson.						
						No. 24446. Indicted for Perjury.

Come as well the attorney of the United States as the defendant

in proper person according to his recognizance and by his attorneys Messrs. D. W. Baker and Fountain Peyton; whereupon the defendant, by leave of the court, withdraws his plea of not guilty in each of the above-entitled cases, and, by his attorneys, files a demurrer to each of said indictments, which demurrers coming on to be heard and argued by counsel, it is considered by the court that said demurrers be and they are hereby overruled and for pleas to said indictments the defendant says that he is not guilty in manner and form as charged therein and for trial puts himself upon the country and the attorney of the United States doth the like; whereupon on motion of the U. S. attorney it is ordered by the court, that for the purposes and convenience of trial the above mentioned indictments be and hereby are consolidated; whereupon comes a jury of good and lawful men of the District of Columbia, to wit:

Horace Jones	William A. Pate,	Charles H. Kettler,
Charles F. Wallraff,	E. Lodge Hill,	Benjamin S. Graves,
Edgar G. Leapley,	Albert Montrop,	Patrick Dugan,
James W. Barnes,	Robert H. Shepherd,	Elbridge G. Lansdale

10 who, being sworn well and truly to try the issues above joined, after hearing the evidence in full, are respited until the regular meeting of the court to-morrow.

*Demurrer.*

Filed January 25, 1905.

In the Supreme Court of the District of Columbia, the 25th Day of January, 1905.

UNITED STATES	} Indictment for Perjury. # —.
vs.	
STEPHEN U. G. JOHNSON.	

Now comes the defendant by D. W. Baker and Fountain Peyton and says that the indictments against the above-named defendant in the above entitled cause are insufficient in substance and form.

The matters of law to be argued are as follows:

1. That an oath was not required by law as set forth in said indictments. 2. That said indictments do not set forth any false & fraudulent affidavit as required by law. 3. That said alleged false statements are immaterial, and that said indictment charges no offense against any law of the United States.

D. W. BAKER,  
FOUNTAIN PEYTON,  
Attorneys for Defendant.

11 Supreme Court of the District of Columbia.

THURSDAY, *January* 26, 1905.

The court resumes its session pursuant to adjournment, Mr. Justice Gould presiding.

\* \* \* \* \*

UNITED STATES	}	No. 24278. Indicted for Violation of Section 5479, R. S. U. S.
<i>vs.</i>		
STEPHEN U. G. JOHNSON, alias Garnet S. Johnson.		

UNITED STATES	}	No. 24446. Indicted for Perjury.
<i>vs.</i>		
STEPHEN U. G. JOHNSON, alias Garnet S. Johnson.		

Come again the parties aforesaid in manner aforesaid and the same jury that was respited yesterday; whereupon the jury, after hearing the arguments of counsel and charge of the court, upon their oath say that the defendant is guilty in manner and form as charged in indictment numbered 24,446 and also guilty in manner and form as charged in the first count of indictment numbered 24,278 but not guilty in manner and form as charged in the second count thereof; whereupon the defendant is committed to jail to await further action in said cases.

*Motion to Arrest Judgment.*

Filed January 27, 1905.

In the Supreme Court of the District of Columbia, Holding a Criminal Term.

UNITED STATES	}	Criminal, No. 24278.
<i>vs.</i>		
STEPHEN EUGENE JOHNSON.		

12 Now comes the defendant, by his attorneys, and moves the court to arrest the judgment on the verdict rendered in the above entitled cause, for the following reasons:

1. That the first count in said indictment on which said defendant was convicted, does not charge an offense under the laws of the United States.

2. That said count attempts to charge defendant with falsely making and forging a certain application, but that said indictment fails to state wherein said application was falsely made and forged.

3. That said application alleged to have been falsely made and forged is not a declaration or statement required by any law of the United States to be made, and therefore is not a declaration or statement within section 5479 of the Revised Statutes of the United States.

4. That there is now law or valid rule promulgated by the Civil Service Commission which required the certain facts set up in said indictment to be a part and parcel of said application.

Wherefore defendant prays the court to arrest the judgment and discharge him.

D. W. BAKER,  
FOUNTAIN PEYTON,  
*Attorney- for Defendant.*

13 *Order Sustaining Motion, Appeal, &c.*

Supreme Court of the District of Columbia.

FRIDAY, *January 27, 1905.*

The court resumes its session pursuant to adjournment, Mr. Justice Gould presiding.

\* \* \* \* \*

UNITED STATES	}	No. 24278. Convicted of Violation of Section 5479, R. S. U. S.
vs.		
STEPHEN U. G. JOHNSON, alias		
Garnet S. Johnson.		

Come as well the attorney of the United States as the defendant in proper person in custody of the warden of the United States jail in and for the District of Columbia and by his attorney-, Messrs. D. W. Baker and Fountain Peyton, whereupon the defendant's motion in arrest of judgment coming on to be heard, and argued by counsel, it is considered by the court that said motion be and it hereby is granted; whereupon it is considered that said defendant go thereof without day and be discharged from further custody in this case; and thereupon the attorney of the United States notes an appeal to the Court of Appeals of the District of Columbia from the judgment of the court in this case.

\* \* \* \* \*

14 Supreme Court of the District of Columbia.

WEDNESDAY, *March 8, 1905.*

The court resumes its session pursuant to adjournment, Mr. Justice Gould presiding.

\* \* \* \* \*

UNITED STATES	}	No. 24278. Convicted of Violation of Section 5479, R. S. U. S.
vs.		
STEPHEN U. G. JOHNSON, alias		
Garnet S. Johnson.		

It is by the court ordered that the time for filing the transcript of the record in the Court of Appeals of the District of Columbia, on

the appeal taken in this case, be and the same hereby is extended up to and including the 20th day of April, A. D. 1905.

15 Supreme Court of the District of Columbia.

UNITED STATES OF AMERICA, }  
District of Columbia, } ss:

I, John R. Young, clerk of the supreme court of the District of Columbia, hereby certify the foregoing pages, numbered from 1 to 14, inclusive, to be a true and correct transcript of the record, as per rule 5 of the Court of Appeals of the District of Columbia, in cause No. 24,278, criminal, United States vs. Stephen U. G. Johnson, alias Garnet S. Johnson, as the same remains upon the files and of record in said court.

Seal Supreme Court of the District of Columbia. In testimony whereof, I hereunto subscribe my name and affix the seal of said court, at the city of Washington, in said District, this 19th day of April, A. D. 1905.  
JOHN R. YOUNG, *Clerk.*

Endorsed on cover: District of Columbia supreme court. No. 1542. United States, appellant, vs. Stephen U. G. Johnson, alias Garnet S. Johnson. Court of Appeals, District of Columbia. Filed Apr. 20, 1905. Henry W. Hodges, clerk.

